

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA**

3. Hearing Location: ☒ 255 East Temple Street, Los Angeles ☐ 411 West Fourth Street, Santa Ana
- ☐ 21041 Burbank Boulevard, Woodland Hills ☐ 1415 State Street, Santa Barbara
- ☐ 3420 Twelfth Street, Riverside

Signature of Individual Debtor or Attorney for Debtor

MOTION TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(d)]

(DEBTOR: Richard Askew
Esther Askew

NAME OF CREDITOR HOLDING JUNIOR LIEN ("Respondent"): United Guarantee

1. Property at Issue: Debtor moves to avoid the junior deed of trust, mortgage or other encumbrance (Lien) encumbering the following real property (Property), which is the principal residence of debtor.

Street Address: 14418 Cobblestone Ln
Unit Number: _____
City, State, Zip Code: Gardena CA 90247

Legal description of Property for document recording number (including county of recording): TR=60252 LOT 2 CONDO UNIT 6 (AIRSPACE AND 1/35 INT IN COMMON AREA)

☐ See attached page for legal description of Property or document recording number.

2. Case History:

- a. A voluntary petition under Chapter ☐ 7 ☐ 11 ☐ 12 ☒ 13 was filed on (specify petition date): 08/27/2013
- b. ☐ An Order of Conversion to chapter 13 was entered on (specify date): _____

3. Grounds for Avoidance of Junior Lien:

a. As of (date of title review) 11/19/2013, the Property is subject to the following liens in the amounts specified securing the debt against the Property, that the debtor seeks to have treated as indicated:

- (1) (Name of holder of 1st lien) Select Portfolio Servicing in the amount of \$ 347,745.68.
- (2) (Name of holder of 2nd lien) United Guarantee in the amount of \$ 103,881.86 ☒ is ☐ is not to be avoided;
- (3) (Name of holder of 3rd lien) _____ in the amount of \$ _____ ☐ is ☐ is not to be avoided;

☐ See attached page for additional lien(s).

As of (date of valuation/appraisal) 5/8/13, Property is worth no more than (value per valuation/appraisal) \$ 300,000.00.

b. As a result, Respondent's Lien encumbering the Property is wholly unsecured.

c. Evidence in Support of Motion:

- (1) ☒ The amount of the lien identified in paragraph 3(a)(1) is based on (type of evidence) Mortgage Statement, attached hereto and identified as Exhibit 1.
- (2) ☒ The amount of the lien identified in paragraph 3(a)(2) is based on (type of evidence) Mortgage Statement, attached hereto and identified as Exhibit 2.
- (3) ☐ The amount of the lien identified in paragraph 3(a)(3) is based on (type of evidence) _____, attached hereto and identified as Exhibit ____.
- (4) ☒ The relative priority of the liens encumbering the Property is established by evidence attached as Exhibit 3.

(5) ☒ The value of the Property from paragraph 3(b) is based on (type of evidence) Appraisal Dated 5/8/13, attached as Exhibit 4.

(6) ☐ Debtor submits the attached Declaration(s) -

(7) ☐ Other evidence (specify/identify supplemental evidence): _____.

d. WHEREFORE, Debtor prays that this Court issue an Order granting the this Motion and establishing that:

(1) The Property is valued at no more than (requested value) \$ 300,000.00.

(2) No payments are to be made on the secured claim of the Respondent, and regular mortgage maintenance payments are not to be made, before the Debtor's ☒ completion of the chapter 13 plan, or ☐ receipt of a chapter 13 discharge.

(3) Respondent's(s') claim on the junior position lien(s) shall be allowed as a nonpriority general unsecured claim(s) in the amount per the filed Proof of Claim.

(4) The avoidance of the Respondent's(s') junior lien(s) is contingent upon: The Debtor's ☒ completion of the chapter 13 plan, or ☐ receipt of a chapter 13 discharge.

(5) The Respondents shall retain its/their lien(s) in the junior position for the full amount due under the corresponding note and lien in the event of either the dismissal of the Debtor's chapter 13 case, the conversion of the Debtor's chapter 13 case to any other chapter under the United States Bankruptcy Code, or if the Property is sold or refinanced prior to the Debtor's ☒ completion of the chapter 13 plan, or ☐ receipt of a chapter 13 discharge.

(6) In the event that the holder of the first position lien or any senior lien on the Property forecloses on its interest and extinguishes the Respondent's(s') lien rights prior to the Debtor's completion of the chapter 13 plan and receipt of a chapter 13 discharge, the Respondent's(s') lien(s) shall attach to the proceeds greater than necessary to pay the senior lien, if any, from the foreclosure sale, subject to the priority of any such junior lien(s).

e. ☐ See attached continuation page for additional provisions.

Date: 11/26/13

Respectfully submitted,

By: /s/ Julie Moradi-Lopes

Signature of Debtor or Attorney for Debtor

Name: Julie Moradi-Lopes

Printed Name of Debtor or Attorney for Debtor

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

**10900 183rd Street
Suite 270
Cerritos, CA 90703**

A true and correct copy of the foregoing document entitled (*specify*): **Debtor's Motion to Avoid Junior Lien on Principal Residence** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **11/26/13**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Kathy A Dockery (TR) efiling@CH13LA.com
- Arnold L Graff ecfcacb@piteduncan.com
- Terry Loftus bknotice@mccarthyholthus.com, tloftus@mccarthyholthus.com
- United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On **11/26/2013**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

United States Bankruptcy Court
Edward R. Roybal Federal Bldg & Crthse
255 E. Temple Street, Suite 1382
Los Angeles, CA 90012

Richard Askew Esther Askew
PO BOX 2807
Gardena, CA 90247

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

11/26/13

Julie Moradi-Lopes

/s/ Julie Moradi-Lopes

Date

Printed Name

Signature

II. SERVED BY UNITED STATES MAIL, CERTIFIED MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):

(Attached page to Proof of Service of Document-please include any additional or alternative addresses and attach additional pages if needed)

(Certified Mail required for service on a national bank.)

1st lienholder (name and address) Select Portfolio Servicing Inc 3815 S West Temple Salt Lake City, UT 84115	Address from: <input type="checkbox"/> Proof of Claim <input checked="" type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input checked="" type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
1st lienholder (name) and Agent for Service of Process (name and address) Select Portfolio Servicing Inc CORPORATION SERVICE COMPANY WHICH WILL DO BUSINESS IN CALIFORNIA AS CSC - LAWYERS INCORPORATING SERVICE 2710 Gateway Oaks Dr, Ste 150N Sacramento, CA 95833	Address from: <input type="checkbox"/> Proof of Claim <input checked="" type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input checked="" type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
1st lienholder (name) and Servicing Agent (name and address) Select Portfolio Servicing Inc Attn: Matt Hollingsworth CEO and President 3815 S West Temple Salt Lake City, UT 84115	Address from: <input type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input checked="" type="checkbox"/> Other: <i>specify</i> Better Business Bureau Website	Delivery Method <input type="checkbox"/> US Mail <input checked="" type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____

2nd lienholder (name and address) United Guaranty Res Ins Co of NC PO BOX 20327 Greensboro, NC 27420	Address from: <input checked="" type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input checked="" type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
2nd lienholder (name) and Agent for Service of Process (name and address) LINDA BRISTER 14 PILOS LAGUNA NIGUEL CA 92677	Address from: <input type="checkbox"/> Proof of Claim <input checked="" type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input checked="" type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
2nd lienholder (name) and Servicing Agent (name and address) United Guaranty Res Ins Co of NC Mr. Eric Martinez (CEO) 230 N Elm St Greensboro, NC 27401-2417	Address from: <input type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input checked="" type="checkbox"/> Other: <i>specify</i> Better Business Bureau Website	Delivery Method <input type="checkbox"/> US Mail <input checked="" type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____

3rd lienholder (name and address)	Address from: <input type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
3rd lienholder (name) and Agent for Service of	Address from:	Delivery Method

Process (name and address)	<input type="checkbox"/> Proof of Claim <input type="checkbox"/> FDIC website	<input type="checkbox"/> Secretary of State <input type="checkbox"/> Other: <i>specify</i>	<input type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
3rd lienholder (name) and Servicing Agent (name and address)	<input type="checkbox"/> Proof of Claim <input type="checkbox"/> FDIC website	<input type="checkbox"/> Secretary of State <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____

Alternative/Additional Address (name and address)	<input type="checkbox"/> Proof of Claim <input type="checkbox"/> FDIC website	<input type="checkbox"/> Secretary of State <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
Alternative/Additional Address (name and address)	<input type="checkbox"/> Proof of Claim <input type="checkbox"/> FDIC website	<input type="checkbox"/> Secretary of State <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____